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September 19, 2005

Mr. Michael Wilhelm  
Chief, Public Safety and Private Infrastructure Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
Washington, D.C. 20554

Re: *Ex Parte* Communication  
WTB Docket 99-87

Dear Mr. Wilhelm:

This letter presents the views of the National Public Safety Telecommunications Council (NPSTC) regarding the interim transitional provisions of the Commission's Order addressing the *Promotion of Spectrum Efficient Technologies on Certain Frequencies*, WT Docket 99-87, RM -9332, 29 FCC Rcd 25045 (December 23, 2004). The Commission's work in this proceeding has been significant and its dedication to more efficient technology will benefit all users. Yet NPSTC believes that the objective of moving to 12.5 kHz technology is undermined by the challenges the interim transitional provisions present. These provisions impose enormous difficulties on the range of public safety agencies and will impede operations. The provisions will not promote the benefits the Commission is pursuing.

The Commission's decision established a January 1, 2013 deadline for migration to 12.5 kHz technology or a technology achieving the narrowband equivalent for public safety and industrial/business licensees operating at frequencies in the 150-174 MHz and 421-512 MHz bands. NPSTC agrees with the Commission's reasoning that a single, uniform date by which all Public Safety Radio Pool and Industrial/Business Radio Pool licensees must migrate to 12.5 kHz narrowband removes any uncertainty created by multiple deadlines and encourages the overall migration to narrowband technology. This date provides a reasonable time to plan, obtain the necessary resources and otherwise meet the objective.

In contrast, NPSTC believes that the interim transition dates imposed by the Order will disrupt public safety operations and undermines the objective of migrating to 12.5 kHz technology. The interim transitional provisions preclude applications for new operations, modifications to an agency's contour and the manufacture and import of 25 KHz equipment after January 1, 2011, two years before the purported single uniform date of January 1, 2013 when systems are to migrate.

These rules are neither transitional nor interim. Far from providing an incentive to meet the January 1, 2013 deadline, the provisions preclude altering an agency's contour to respond to expand geographic area

responsibilities or replacing equipment. The provisions effectively accelerate the mandate by two years and by doing so present severe obstacles to the daily operations of maintaining public safety communications systems that will denigrate the quality and efficiency of service.

In precluding any expansion of an agency's footprint of operations after January 1, 2011 the rules ignore the reality that the geographic area of public safety operations are not static and local jurisdictions must frequently adjust to expanded responsibilities. Broadened coverage areas emanate from annexation of areas into a municipality, construction of subdivisions, office buildings and sports and entertainment arenas in previously isolated areas, consolidation of two or more agencies, and deployment by adjoining agencies or those with concurrent jurisdiction to assist in a particular area. This deployment of resources evolves from economic, population, zoning and other demographic changes that transpire on a regular basis across local governments. The Commission's interim transition rules barring new operations or expanding an agency's contour will have a severe effect in precluding an agency from having anything other than two separate systems. The result will hinder operations significantly, diluting fundamental interoperability objectives.

The interim transitional rules will have a similar negative result by prohibiting the manufacture or importation of 25 KHz equipment after January 1, 2011. During the course of daily operations an agency's equipment becomes damaged, lost or otherwise incapable of repair. Agencies budget for replacement of this equipment. Under the interim transition rules agencies will not be able to replace this equipment after January 1, 2011. Not only will this be severely detrimental to operations, the inability to obtain a replacement part can render an entire system useless. The new rules do not recognize the extent agencies rely on access to replacement parts nor the incongruous circumstance that any repair will need to wait up to two years for the construction and implementation of the new 12.5 kHz system.

NPSTC recognizes the need to provide incentives to obtain the desired efficiency in a timely manner. Determining the appropriate transition requires balancing the economic and operational impacts of existing users. The interim transitional rules not only do not strike the proper balance but will disrupt substantially efforts to meet the mandate of January 1, 2013. Far from an incentive to transition to more efficient technology, the interim technology rules will be viewed more as a penalty to those agencies not able to migrate by January 1, 2011.

There will be a large number of agencies that will migrate to 12.5 kHz technology prior to 2013. The benefit of the January 1, 2013 date is that the process to meet this objective must ultimately confront that date. NPSTC does not believe that the exceedingly long and challenging budget, planning and procurement processes of government agencies will be altered by the "incentives" of an interim transition rules that restrict new operations, preclude contour changes and prohibit replacement parts. What will happen is a disruption to agency operations.

The interim transitional rules add a layer of complexity and nuance that undermine the finite date of January 1, 2013. That date is important in bringing clarity in terms of what is expected of licensees. The clarity moves quickly to ambiguity if not confusion in circumstances where an agency needs to expand its operations because of enlarged geographic responsibility or needs to replace equipment. In such cases, which NPSTC believes to be many, the migration date effectively becomes two years earlier, January 1, 2011.

The Commission notes that its rules already require all new 25 kHz equipment certified since 1997 to be capable of operating at 12.5 kHz and that agencies acquiring 25 kHz equipment between now and January 1, 2013 will have little basis for claiming or needing waiver relief since the conversion process would not be either technically difficult or prohibitively expensive. In this context, NPSTC believes that

the Commission discounts considerably the degree of legacy equipment in the public safety sector in existence now and in 2011 and the costs associated any conversion process. A large number of agencies, of all sizes, will have legacy equipment operating as the mandate approaches that was purchased prior to 1997. Depreciation and investment lifetime periods have little relevance in the public safety sector.

NPSTC urges the Commission to embrace one migration date and to eliminate the interim transitional rules, at least with regard to public safety agencies. In the alternative, we think that the Commission should embrace a broad and flexible waiver policy and procedure that would allow new or expanded 25 kHz systems for interoperability purposes. We are concerned that the Commission's waiver process, from the perspective of the Commission's own resource demands or the challenges it will place on individual agencies, be able to respond to what we believe will be a significant number of agencies needing relief.

With regard to replacement equipment, any waiver process would be unlikely to provide a reasonable alternative as even if the Commission grants individual relief, no manufacturer is likely to invest in inventory dependent upon the waiver process. An option to consider would be to allow manufacturers to continue selling equipment certified prior to 2011 through January 1, 2013, but provide for no new 25 kHz equipment to be certified subsequent to January 1, 2011.

In summary, the interim transition rules will not provide any incentives to move to 12.5 KHz technology. Expanding coverage areas and repairing legacy systems short of replacing entire systems are critical, if not routine, elements of public safety communications. The interim transitions rules will unnecessarily disrupt service and reliability. The result will be an inability to equip adequately public safety officers.

NPSTC appreciates very much the Commission's continued commitment to public safety communications. We look forward to our discussions on this important matter.

Respectfully,

*Vincent R. Stile*

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